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PRIVATE IN HUMAN ACCESS TO SPACE AND INCENTIVE BASED REGULATION IN THE
UNITED STATES

Abstract

In recent years, private human access to outer space has become one of the most high profile future space activities. Numerous companies view “space tourism” as an industry that will lead to large financial gains. Additionally, the concept has captured the imagination of the public. Nations have begun to court these companies in order to incentivize them to locate within that State’s borders. This is often accomplished with favorable regulatory regimes, and arguably, the United States has led this charge with its Commercial Space Launch Amendments Act, but within the United States there is another layer of these sorts of regulations: individual states have been legislating and regulating to bring space flight companies within their own borders.

This paper will survey space laws and regulations found within individual states of the United States and evaluate how those states are leveraging these regulatory regimes in order to attract high profile companies offering private human access to outer space. These regimes come in numerous forms including liability waivers and favorable tax conditions.

Additionally, this paper will investigate how these regulations fit into the fabric of already existing law by examining issues of regulatory conflict with federal law (e.g. federal preemption), and it will also discuss whether these individual state laws have implications for the international treaty regime. A full understanding of the multiple layers of space regulation is important to parsing the various goals of the laws involved. In particular, laws and regulations made to create incentives differ in form and scope than law created to protect health and safety or to fulfill international obligations. These new sub-regimes represent a nuance in space law development that will begin to play a greater role if private human access to outer space becomes a viable industry.